

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

SCOTT BOGGS

Plaintiff,

v.

UNITED STATES OF AMERICA

Defendant.

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Case No.: 1:21-CV-00166-DAP

Judge Dan Aaron Polster

AFFIDAVIT

Andrew J. Thompson, Esq., begin first duly sworn, states the following to be true:

1. I am an Associate attorney at the law firm of SHAPERO I ROLOFF CO., LPA, which represents the Plaintiff in the above-captioned matter.
2. A Complaint was filed on behalf of Plaintiff in this Court on or about January 21, 2021.
3. A copy of the Summons, Complaint and Waiver of Service forms were sent by counsel for Plaintiff by regular U.S. Mail on or about January 21, 2021 to Robert Wilkinson, Acting Attorney General of the United States, 950 Pennsylvania Avenue NW, Washington, DC 20530.
4. A copy of the Summons, Complaint and Waiver of Service forms were sent by counsel for Plaintiff by regular U.S. Mail on or about January 21, 2021 to Bridget M. Brennan, Acting U.S. Attorney, Northern District of Ohio, 801 West Superior Avenue, Suite 400, Cleveland, Ohio 44113-1852.

5. After the Waiver of Service forms were not returned by either of the above parties, counsel for Plaintiff contacted the respective offices and was told that service would not be waived.

6. On or about April 12, 2021, service was attempted by certified mail upon Merrick B. Garland, Esq., Attorney General of the United States, 950 Pennsylvania Avenue NW, Washington, D.C. 20530.

7. On or about April 12, 2021, service was attempted by certified mail upon Bridget M. Brennan, Acting U.S. Attorney, Northern District of Ohio, 801 West Superior Avenue, Suite 400, Cleveland, Ohio 44113-1852.

8. On or about April 19, 2021, an executed certified mail receipt card was received in Plaintiff's counsel's office for the Acting U.S. Attorney, Northern District of Ohio, indicating that the Summons and Complaint were received on April 15, 2021. Return of Service was filed with the Court on April 19, 2021.

9. On or about April 19, 2021, an unsigned certified mail receipt card was received in Plaintiff's counsel's office for the U.S. Attorney General.

10. Plaintiff's counsel assumed that delivery had been made by certified mail prior to April 19, 2021 because the delivery receipt card was returned. Since it was unsigned, however, counsel hired a process server in Washington, D.C. to execute personal service on the U.S. Attorney's General office on April 19, 2021.

11. On April 21, 2021, the undersigned spoke to the process server's office and learned that due to the COVID-19 pandemic, the Attorney General's Office was not accepting legal documents in person. The process server was instructed by a representative of the Attorney

General's office to serve the documents by certified mail. When advised that a certified mail receipt was already returned unsigned, the process server was told that the delivery was likely not signed because of COVID restrictions in place at the office.

12. The process server executed a due diligence affidavit and it is being filed contemporaneously with this Affidavit.

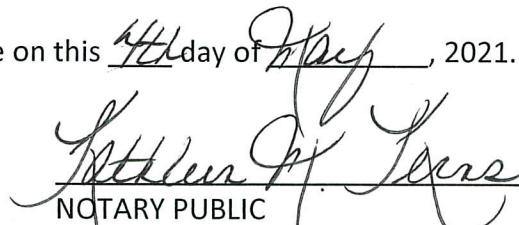
13. On or about April 21, 2021, counsel for Plaintiff checked the tracking number on the certified mail deliver to the U.S. Attorney General's office and the U.S. Postal Service website indicated that the package was "still out for delivery," despite the certified letter being sent on April 12, 2021 and the certified mail receipt card being returned to counsel's office on April 19, 2021. The website was eventually updated to show delivery on April 26, 2021 at 4:46 a.m. A copy of the tracking information is attached hereto as Exhibit A.

14. On April 21, 2021, counsel for Plaintiff filed a Return of Service with this Court and attached a copy of the unsigned certified mail receipt.

15. All of the service efforts made by Plaintiff that are detailed above were undertaken in advance of the deadline for service of the Complaint on the Defendant United States of America.


Andrew J. Thompson, Esq.

SWORN TO AND SUBSCRIBED before me on this 4th day of May, 2021.


NOTARY PUBLIC

